

**Introduced by Senator Wright**

February 27, 2009

---

An act to amend Section 11302 of, and to add Section 11324.5 to, the Business and Professions Code, and to amend Section 1090.5 of the Civil Code, relating to real estate appraisers.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 633, as introduced, Wright. Real estate appraisers.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, provides for the licensure and regulation of real estate appraisers and vests the duties of enforcing and administering that law in the Office of Real Estate Appraisers.

Existing law prohibits a person with an interest in a real estate transaction involving an appraisal to improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

This bill would require that a person making an appraisal in connection with a mortgage loan shall make at least one personal visit to the property that he or she is appraising. The bill would specify that this duty may not be assigned or delegated to any other person or employee of the appraiser. As applied to a licensed appraiser, as defined, a violation of these provisions would be deemed a violation of the Real Estate Appraisers' Licensing and Certification Law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) “Agency” means the Business, Transportation and Housing Agency.

(b) “Appraisal” means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information, *and as valued pursuant to at least one personal visit by the appraiser.*

The term “appraisal” does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) “Appraisal Foundation” means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) “Appraisal Subcommittee” means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) “Director” means the Director of the Office of Real Estate Appraisers.

(f) “Federal financial institutions regulatory agency” means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration, the Resolution Trust Corporation, and any

1 other agency determined by the director to have jurisdiction over  
2 transactions subject to this part.

3 (g) “Federally related real estate appraisal activity” means the  
4 act or process of making or performing an appraisal on real estate  
5 or real property in a federally related transaction and preparing an  
6 appraisal as a result of that activity.

7 (h) “Federally related transaction” means any real estate-related  
8 financial transaction which a federal financial institutions  
9 regulatory agency engages in, contracts for or regulates and which  
10 requires the services of a state licensed real estate appraiser  
11 regulated by this part. This term also includes any transaction  
12 identified as such by a federal financial institutions regulatory  
13 agency.

14 (i) “License” means any license, certificate, permit, registration,  
15 or other means issued by the office authorizing the person to whom  
16 it is issued to act pursuant to this part within this state.

17 (j) “Licensure” means the procedures and requirements a person  
18 shall comply with in order to qualify for issuance of a license and  
19 includes the issuance of the license.

20 (k) “Office” means the Office of Real Estate Appraisers.

21 (l) “Secretary” means the Secretary of the Business,  
22 Transportation and Housing Agency.

23 (m) “State licensed real estate appraiser” is a person who is  
24 issued and holds a current valid license under this part.

25 (n) “Uniform Standards of Professional Appraisal Practice” are  
26 the standards of professional appraisal practice established by the  
27 Appraisal Foundation.

28 (o) “Course provider” means a person or entity that provides  
29 educational courses related to professional appraisal practice.

30 SEC. 2. Section 11324.5 is added to the Business and  
31 Professions Code, to read:

32 11324.5. Notwithstanding Section 11324, the individual who  
33 is the licensed appraiser shall make at least one personal visit to  
34 the property that he or she is appraising. This duty may not be  
35 assigned or delegated to any other person or employee of the  
36 appraiser.

37 SEC. 3. Section 1090.5 of the Civil Code is amended to read:

38 1090.5. (a) No person with an interest in a real estate  
39 transaction involving an appraisal shall improperly influence or  
40 attempt to improperly influence, through coercion, extortion, or

1 bribery, the development, reporting, result, or review of a real  
2 estate appraisal sought in connection with a mortgage loan.

3 (b) Subdivision (a) does not prohibit a person with an interest  
4 in a real estate transaction from asking an appraiser to do any of  
5 the following:

6 (1) Consider additional, appropriate property information.

7 (2) Provide further detail, substantiation, or explanation for the  
8 appraiser's value conclusion.

9 (3) Correct errors in the appraisal report.

10 (c) (1) *A person who prepares an appraisal in connection with*  
11 *the making of any mortgage loan shall make at least one personal*  
12 *visit to the property that he or she is appraising. This duty may*  
13 *not be assigned or delegated to any other person or employee of*  
14 *the appraiser.*

15 (2) *This subdivision shall apply to any person making an*  
16 *appraisal sought in connection with any type of mortgage loan.*

17 ~~(e)~~

18 (d) If a person who violates this section is licensed under any  
19 state licensing law and the violation occurs within the course and  
20 scope of the person's duties as a licensee, the violation shall be  
21 deemed a violation of that state licensing law.

22 ~~(d)~~

23 (e) Nothing in this section shall be construed to authorize  
24 communications that are otherwise prohibited under existing law.